

**TWENTY-FOURTH DAY - FEBRUARY 12, 2003****LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE  
FIRST SESSION****TWENTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 12, 2003

**PRAYER**

The prayer was offered by Pastor Joe Culpepper, Southview Christian Church, Lincoln, Nebraska.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Bromm presiding.

The roll was called and all members were present except Senators Johnson and Mossey who were excused; and Senators Landis, Maxwell, and Schimek who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-third day was approved.

**SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR 32 was referred to the Reference Committee.

**MESSAGE FROM THE GOVERNOR**

February 10, 2003

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm, and Members:

Contingent upon your approval, the following individuals have been appointed to the Game and Parks Commission.

**APPOINTEES:**

Mark Pinkerton, 1365 W State Hwy 4, Beatrice, NE 68310

James Stuart, 2425 Ridge Rd, Lincoln, NE 68512

William Zutavern, PO 158, Dunning, NE 68833

Gary Parker, 6272 Country Club Dr, Columbus, NE 68601

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

**RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR 28 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 28.

**GENERAL FILE**

**LEGISLATIVE BILL 371.** Title read. Considered.

The Standing Committee amendment, AM0106, found on page 339, was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Senator Jensen asked unanimous consent to be excused until he returns. No objections. So ordered.

**LEGISLATIVE BILL 53.** Title read. Considered.

The Standing Committee amendment, AM0110, found on page 344, was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Senators Brashear and Wehrbein asked unanimous consent to be excused until they return. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Senator Quandahl asked unanimous consent to be excused until he returns. No objections. So ordered.

**LEGISLATIVE BILL 181.** Title read. Considered.

The Standing Committee amendment, AM0065, found on page 344, was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 45.** Title read. Considered.

**SENATOR SCHIMEK PRESIDING**

Senator Burling asked unanimous consent to be excused until he returns. No objections. So ordered.

The Standing Committee amendment, AM0042, found on page 370, was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Senator Dw. Pedersen asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Thompson moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Senator Thompson requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 25:

Aguilar	Connealy	Hartnett	Pederson, D.	Schrock
Beutler	Cunningham	Jensen	Preister	Smith
Bromm	Erdman	Kruse	Price	Stuthman
Brown	Foley	Louden	Raikes	Thompson
Byars	Friend	Maxwell	Schimek	Wehrbein

Voting in the negative, 4:

Baker	Combs	Redfield	Tyson
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Present and not voting, 13:

Bourne	Hudkins	Kremer	Mines	Vrtiska
Cudaback	Janssen	Landis	Stuhr	
Engel	Jones	McDonald	Synowiecki	

Absent and not voting, 1:

Chambers

Excused and not voting, 6:

Brashear	Johnson	Pedersen, Dw.
Burling	Mossey	Quandahl

Advanced to E & R for review with 25 ayes, 4 nays, 13 present and not voting, 1 absent and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Wehrbein asked unanimous consent to be excused. No objections. So ordered.

### **STANDING COMMITTEE REPORTS**

#### **Transportation and Telecommunications**

**LEGISLATIVE BILL 209.** Placed on General File.

**LEGISLATIVE BILL 227.** Placed on General File.

**LEGISLATIVE BILL 480.** Placed on General File.

**LEGISLATIVE BILL 481.** Placed on General File.

**LEGISLATIVE BILL 353.** Placed on General File as amended.

Standing Committee amendment to LB 353:

AM0239

- 1 1. On page 2, line 7, strike "suspension" and insert
- 2 "impoundment"; and in line 13 strike "suspend" and insert
- 3 "impound".

**LEGISLATIVE BILL 140.** Indefinitely postponed.

**LEGISLATIVE BILL 166.** Indefinitely postponed.

**LEGISLATIVE BILL 753.** Indefinitely postponed.

(Signed) Tom Baker, Chairperson

### **ANNOUNCEMENT**

Senator Aguilar designates LB 454 as his priority bill.

### **GENERAL FILE**

**LEGISLATIVE BILL 259.** Title read. Considered.

The Standing Committee amendment, AM0124, found on page 374, was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Senator Mines asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

**LEGISLATIVE RESOLUTION 2CA.** Read. Considered.

### **SENATOR CUDABACK PRESIDING**

Senators Aguilar and Foley asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 31 ayes, 1 nay, 11 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 319.** Title read. Considered.

The Standing Committee amendment, AM0112, found on page 374, was adopted with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 451.** Title read. Considered.

Senator Engel asked unanimous consent to be excused. No objections. So ordered.

The Standing Committee amendment, AM0094, found on page 375, was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 158.** Title read. Considered.

The Standing Committee amendment, AM0125, found on page 380, was adopted with 26 ayes, 1 nay, 15 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

### **STANDING COMMITTEE REPORTS** **Transportation and Telecommunications**

**LEGISLATIVE BILL 532.** Placed on General File as amended.

Standing Committee amendment to LB 532:

AM0276

- 1 1. On page 2, lines 5 and 9, after "by" insert "or under
- 2 contract with".
- 3 2. On page 3, line 9, strike "or"; in line 16 after
- 4 "homicide" insert ";
- 5 (e) Been convicted of a violation of section 28-416 in
- 6 the ten years preceding the date of the application;
- 7 (f) Been convicted of an offense involving unlawful
- 8 possession or use of a firearm in the ten years preceding the date
- 9 of the application; or
- 10 (g) Been convicted of any assault in the five years
- 11 preceding the date of the application"; strike lines 17 through 19;
- 12 and strike beginning with "for" in line 20 through "issuance" in
- 13 line 21 and insert "until the licensee's birthday in the second
- 14 year after issuance and may be renewed for two-year periods
- 15 thereafter".

**LEGISLATIVE BILL 560.** Placed on General File as amended.

Standing Committee amendment to LB 560:

AM0329

- 1 1. On page 39, lines 7 and 19; and page 45, line 26,
- 2 strike "thirty" and insert "eighteen".

**LEGISLATIVE BILL 303.** Placed on General File as amended.

(Standing Committee amendment, AM0159, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 342.** Indefinitely postponed.

(Signed) Tom Baker, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 33.** Introduced by Dw. Pedersen, 39.

WHEREAS, Berkley Bailey was a longtime supporter of Native American causes; and

WHEREAS, Berkley Bailey was a former teacher at the University of Nebraska-Lincoln and consultant; and

WHEREAS, Berkley Bailey championed the cause of proper reburial of Native American remains and for the return of such remains from the University of Nebraska-Lincoln to the appropriate tribes; and

WHEREAS, Berkley Bailey died January 20, 2003, in Lincoln, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature extends its sympathy to Berkley Bailey's wife, Martha McCollough, family, and friends.

2. That a copy of this resolution be sent to the family of Berkley Bailey.

Laid over.

### AMENDMENT - Print in Journal

Senator Quandahl filed the following amendment to LB 217:  
AM0316

- 1 1. Insert the following new section:
- 2 "Sec. 3. Section 8-116.01, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 8-116.01. With the approval of the ~~Director of Banking~~
- 5 ~~and Finance~~ director, any banking institution as defined in section
- 6 8-701 may at any time, through action of its board of directors and
- 7 without requiring any action of its stockholders, issue and sell
- 8 its capital notes or debentures. Such capital notes or debentures
- 9 shall be subordinate and subject to the claims of depositors and
- 10 may be subordinated and subjected to the claims of other creditors.
- 11 The capital stock of any bank or trust company as such term capital
- 12 stock is used respectively in sections 8-116, 8-118, 8-127 and
- 13 8-205, the capital of any corporation transacting a banking
- 14 business as the term capital is used in section 8-187, the capital
- 15 of a bank as the term capital is used in section 8-132, and the
- 16 capital stock of any trust company as the term capital stock is
- 17 used in sections 8-218 to 8-221, shall be deemed to be unimpaired
- 18 when the amount of such capital notes and debentures as represented
- 19 by cash or sound assets exceeds the impairment as found by the
- 20 ~~Department of Banking and Finance~~ department. Before any such
- 21 capital notes or debentures are retired or paid by the banking
- 22 institution any existing deficiency of its capital, disregarding
- 23 the notes or debentures to be retired, must be paid in, in cash, to
- 24 the end that the sound capital assets shall at least equal the
- 1 capital or capital stock of the respective institutions named above
- 2 in the sense such terms capital and capital stock are used in the
- 3 respective sections named. Such capital notes or debentures shall
- 4 in no case be subject to any assessment. The holders of such
- 5 capital notes or debentures shall not be held individually
- 6 responsible as such holders for any debts, contracts, or
- 7 engagements of such institution; and shall not be held liable for
- 8 assessments to restore impairments in the capital of such
- 9 institution."
- 10 2. On page 10, line 8, strike "reserve", show as
- 11 stricken, and insert "available funds, reserves".
- 12 3. On page 19, line 10, strike "conveyance", show as
- 13 stricken, and insert "conveyances".
- 14 4. On page 27, line 12, strike "8-710", show as
- 15 stricken, and insert "8-709".
- 16 5. On page 32, lines 1 and 2, strike "18 and 20" and
- 17 insert "20 and 22".

- 18 6. On page 56, line 14, strike "846", show as stricken,  
 19 and insert "9101".  
 20 7. On page 57, line 22, after "Union" insert  
 21 "Administration".  
 22 8. On page 65, line 17, strike "44" and insert "45".  
 23 9. On page 67, line 27, after "subject" insert "to  
 24 59-1751".  
 25 10. On page 68, line 2, strike "and 59-1751"; strike  
 26 beginning with "1" in line 19 through "50" in line 20 and insert "2  
 27 to 8, 10, 11, 12 to 32, 34 to 47, 50, and 51"; and in line 25 after  
 1 "sections" insert "8-116.01".  
 2 11. Renumber the remaining sections accordingly.

### **NOTICE OF COMMITTEE HEARING**

#### **Appropriations**

Room 1003

Wednesday, February 19, 2003

1:15 p.m.

Bond Issue - University of Nebraska - Lincoln residence halls improvements

(Signed) Don Pederson, Vice Chairperson

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator McDonald asked unanimous consent to have her name added as cointroducer to LB 259. No objections. So ordered.

Senator Wehrbein asked unanimous consent to have his name added as cointroducer to LR 2CA. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Emily Darter from Lincoln; 12 participants in the Phelps/Kearney County Leadership Development Program from Holdrege and Minden; 10 members with the Carman's Transportation Communication Union from Alliance; and members of the Scottsbluff/Gering United Chamber, Alliance Chamber, Leadership Box Butte, Sidney Area Leaders for Tomorrow, and Leadership Scotts Bluff.

### **ADJOURNMENT**

At 12:02 p.m., on a motion by Senator McDonald, the Legislature adjourned until 9:00 a.m., Thursday, February 13, 2003.

Patrick J. O'Donnell  
 Clerk of the Legislature